



# House of Representatives

General Assembly

**File No. 427**

*January Session, 2003*

Substitute House Bill No. 6401

*House of Representatives, April 17, 2003*

The Committee on Environment reported through REP. WIDLITZ of the 98th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING REVISIONS TO CERTAIN WASTE MANAGEMENT PROGRAMS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-207b of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective October 1, 2003*):

3 [No] Except as provided in section 22a-208a, as amended by this act,  
4 no person, firm or corporation may own, operate or maintain a solid  
5 waste disposal area or transfer station, as defined in section 22a-207,  
6 without a permit issued by the Department of Environmental  
7 Protection under section 22a-208a.

8 Sec. 2. Subsection (a) of section 22a-208a of the general statutes is  
9 repealed and the following is substituted in lieu thereof (*Effective*  
10 *October 1, 2003*):

11 (a) (1) The Commissioner of Environmental Protection may issue,  
12 deny, modify, renew, suspend, revoke or transfer a permit, under such

13 conditions as he may prescribe and upon submission of such  
14 information as he may require, for the construction, alteration and  
15 operation of solid waste facilities, in accordance with the provisions of  
16 this chapter and regulations adopted pursuant to this chapter.

17 (2) Notwithstanding the provisions of this section, the commissioner  
18 shall not issue [(1)] (A) a permit for a solid waste land disposal facility  
19 on former railroad property until July 1, 1989, unless the commissioner  
20 makes a written determination that such facility is necessary to meet  
21 the solid waste disposal needs of the state and will not result in a  
22 substantial excess capacity of solid waste land disposal areas or  
23 disrupt the orderly transportation of or disposal of solid waste in the  
24 area affected by the facility, or [(2)] (B) an operational permit for a  
25 resources recovery facility unless the applicant has submitted a plan  
26 pursuant to section 22a-208g for the disposal or recycling of ash  
27 residue expected to be generated at the facility in the first five years of  
28 operation.

29 (3) In making a decision to grant or deny a permit to construct a  
30 solid waste land disposal facility, including a vertical or horizontal  
31 landfill expansion, the commissioner shall consider the character of the  
32 neighborhood in which such facility is located and may impose  
33 requirements for hours and routes of truck traffic, security and fencing  
34 and for measures to prevent the blowing of dust and debris and to  
35 minimize insects, rodents and odors.

36 (4) Notwithstanding the provisions of this section, section 22a-207b,  
37 as amended by this act, or any regulations adopted pursuant to this  
38 chapter, no person shall close a solid waste disposal area unless such  
39 closure is undertaken pursuant to an approval, order or permit issued  
40 by the commissioner. Any such approval, order, or permit shall  
41 include conditions the commissioner deems necessary to protect  
42 human health and the environment and shall include requirements for  
43 post-closure use, care, monitoring and maintenance. The terms and  
44 conditions regarding closure specified in the most recent permit, order,  
45 or approval issued by the commissioner shall supercede and take

46 precedence over the closure requirements specified in a permit, order,  
47 or approval previously issued by the commissioner.

48 (5) The commissioner shall not authorize under a general permit or  
49 issue an individual permit under this section to establish or construct a  
50 new volume reduction plant or transfer station located, or proposed to  
51 be located, within one-quarter mile of a child day care center, as  
52 defined in subdivision (1) of subsection (a) of section 19a-77, in a  
53 municipality with a population greater than one hundred thousand  
54 persons provided such center is operating as of July 8, 1997. The  
55 commissioner may modify or renew a permit for an existing volume  
56 reduction plant or transfer station, in accordance with the provisions of  
57 this chapter, without regard to its location. In making a decision to  
58 grant or deny a permit to construct an ash residue disposal area, the  
59 commissioner shall consider any provision which the applicant shall  
60 make for a double liner, a leachate collection or detection system and  
61 the cost of transportation and disposal of ash residue at the site under  
62 consideration.

63 Sec. 3. Subdivision (1) of subsection (i) of section 22a-208a of the  
64 general statutes is repealed and the following is substituted in lieu  
65 thereof (*Effective October 1, 2003*):

66 (i) (1) The commissioner may issue a general permit for a category  
67 of activities which require a permit under this section, except for an  
68 activity which is already covered by an individual permit, provided  
69 the issuance of the permit is not inconsistent with the requirements of  
70 the federal Resource Conservation and Recovery Act. The  
71 commissioner's authority to issue a general permit for certain  
72 categories of solid waste facilities shall not include the authority to  
73 issue a general permit for resources recovery facilities, biomedical  
74 waste facilities, solid waste disposal areas or municipal solid waste  
75 composting facilities, except that a general permit may be issued for  
76 the excavation, disruption, or closure of a solid waste disposal area  
77 constructed, built or established prior to July 1, 1971. Any person or  
78 municipality conducting an activity for which a general permit has

79 been issued shall not be required to obtain an individual permit under  
80 this section, except as provided in subdivision (3) of this subsection.  
81 The general permit may regulate a category of activities which (A)  
82 involve the same or substantially similar types of operations, (B)  
83 involve the transfer, storage, processing or disposal of the same types  
84 of substances, (C) require the same operating conditions or standards,  
85 and (D) require the same or similar monitoring, and which in the  
86 opinion of the commissioner are more appropriately controlled under  
87 a general permit than under an individual permit. The general permit  
88 may require any person or municipality proposing to conduct any  
89 activity under the general permit to register such activity with the  
90 commissioner before it is covered by the general permit. Registration  
91 shall be on a form prescribed by the commissioner.

92 Sec. 4. Section 22a-208y of the general statutes is repealed and the  
93 following is substituted in lieu thereof (*Effective October 1, 2003*):

94 The person holding the permit for a resources recovery facility or a  
95 solid waste disposal area permitted for municipal solid waste may  
96 submit to the Commissioner of Environmental Protection a plan for the  
97 acceptance and disposal of special waste or processed construction and  
98 demolition wood at such facility. For purposes of this section, "special  
99 waste" shall have the meaning provided in regulations adopted by said  
100 commissioner under this chapter. Such plan shall identify special  
101 waste or processed construction and demolition wood which can be  
102 subject to uniform procedures for screening, testing, acceptance,  
103 recordkeeping, handling and disposal and shall include the rate at  
104 which such waste shall be processed. The commissioner shall review  
105 any plan submitted according to this section and shall approve or deny  
106 such plan. If accepted, compliance with such plan may constitute the  
107 special waste authorization from said commissioner which would  
108 otherwise be required for waste which meets the criteria of the plan

109 Sec. 5. Subdivision (3) of section 22a-134 of the general statutes is  
110 repealed and the following is substituted in lieu thereof (*Effective*  
111 *October 1, 2003*):

112 (3) "Establishment" means any real property at which or any  
113 business operation from which (A) on or after November 19, 1980,  
114 there was generated, except as the result of remediation of polluted  
115 soil, groundwater or sediment, more than one hundred kilograms of  
116 hazardous waste in any one month, (B) hazardous waste generated at a  
117 different location was recycled, reclaimed, reused, stored, handled,  
118 treated, transported or disposed of, (C) the process of dry cleaning was  
119 conducted on or after May 1, 1967, (D) furniture stripping was  
120 conducted on or after May 1, 1967, or (E) a vehicle body repair facility  
121 was located on or after May 1, 1967, except that any real property or  
122 business operation that would qualify as an establishment pursuant to  
123 this subdivision solely as a result of the activities of a universal waste  
124 handler or activities undertaken at a universal waste transfer facility  
125 regarding universal waste shall not be an establishment, provided  
126 such activities have not resulted in the discharge, spillage,  
127 uncontrolled loss, seepage or filtration of a universal waste.

128 Sec. 6. Section 22a-134 of the general statutes is amended by adding  
129 subdivisions (26) to (28), inclusive, as follows (*Effective October 1, 2003*):

130 (NEW) (26) "Universal waste" means the following hazardous  
131 wastes: (A) Batteries, as described in 40 CFR 273.2; (B) pesticides, as  
132 described in 40 CFR 273.3; (C) thermostats, as described in 40 CFR  
133 273.4; (D) lamps, as described in 40 CFR 273.5; and (E) used electronics,  
134 as described in the regulations adopted under section 22a-449;

135 (NEW) (27) "Universal waste handler" means any person whose act  
136 or process produces a universal waste or whose act first causes a  
137 universal waste to become subject to regulation, or the owner or  
138 operator of a facility, including all contiguous property, that receives  
139 universal waste from other universal waste handler, accumulates  
140 universal waste, or sends universal waste to another universal waste  
141 handler, to a destination facility, or to a foreign destination, but does  
142 not mean a person who treats, except pursuant to the provisions of 40  
143 CFR 273.13 (a) or (c), or 40 CFR 273.33 (a) or (c), disposes of, or recycles  
144 universal waste, or a person engaged in the off-site transportation of

145 universal waste, including a universal waste transfer facility;

146 (NEW) (28) "Universal waste transfer facility" means any  
147 transportation-related facility, including, but not limited to, loading  
148 docks, parking areas, storage areas and other similar areas where  
149 shipments of universal waste are held during the normal course of  
150 transportation for not more than ten days.

151 Sec. 7. Section 23-61b of the general statutes is repealed and the  
152 following is substituted in lieu thereof (*Effective October 1, 2003*):

153 (a) No person shall advertise, solicit or contract to do arboriculture  
154 within this state at any time without a license issued in accordance  
155 with the provisions of this section, except that any person may  
156 improve or protect any tree on such person's own premises or on the  
157 property of such person's employer without securing such a license  
158 provided such activity does not violate the provisions of chapter 441,  
159 subsection (a) of section 23-61a or this section. Application for  
160 examination for such license shall be made to the Commissioner of  
161 Environmental Protection and shall contain such information  
162 regarding the applicant's qualifications and proposed operations and  
163 other relevant matters as the commissioner may require and shall be  
164 accompanied by a fee of twenty-five dollars which shall not be  
165 returnable.

166 (b) The commissioner shall require the applicant to show upon  
167 examination that the applicant possesses adequate knowledge  
168 concerning the proper methods of arboriculture and the dangers  
169 involved and the precautions to be taken in connection with these  
170 operations, together with knowledge concerning the proper use and  
171 application of pesticides and the danger involved and precautions to  
172 be taken in connection with their application. If the applicant is other  
173 than an individual, the applicant shall designate an officer, member or  
174 technician of the organization to take the examination, which designee  
175 shall be subject to approval of the commissioner except that any  
176 person who uses pesticides in arboriculture shall be licensed to do  
177 arboriculture or shall be a licensed commercial applicator under

178 chapter 441. If the extent of the applicant's operations warrant, the  
179 commissioner may require more than one such member or technician  
180 to be examined. If the commissioner finds the applicant qualified, the  
181 commissioner shall issue a license to perform arboriculture within this  
182 state. A license shall be valid for a period of five years. The  
183 commissioner may issue licenses so that one-fifth of the licenses expire  
184 each year. The commissioner may issue licenses for less than five years  
185 and prorate the registration fee accordingly. If the commissioner finds  
186 that the applicant is not qualified, or if the commissioner refuses to  
187 issue a license for any other reason, the commissioner shall so inform  
188 the applicant in writing, giving reasons for such refusal.

189 (c) The commissioner may issue a license without examination to  
190 any nonresident who is licensed in another state under a law that  
191 provides substantially similar qualifications for licensure and which  
192 grants similar privileges of licensure without examination to residents  
193 of this state licensed under the provisions of this section.

194 (d) Each licensee shall pay a license [renewal] fee of one hundred  
195 fifty dollars for each initial license or renewal. All examination and  
196 license renewal fees shall be deposited as provided in section 4-32, and  
197 any expenses incurred by the commissioner in making examinations,  
198 issuing certificates, inspecting tree work or performing any duties of  
199 the commissioner shall be charged against appropriations of the  
200 General Fund.

201 (e) Each licensee shall maintain and, upon request, furnish such  
202 records concerning licensed activities as the commissioner may  
203 require.

204 (f) The commissioner may suspend for not more than ten days and,  
205 after notice and hearing as provided in any regulations established by  
206 the commissioner, may suspend for additional periods, or the  
207 commissioner may revoke, any license issued under this section if the  
208 commissioner finds that the licensee is no longer qualified or has  
209 violated any provision of section 23-61a or this section, or any  
210 regulation adopted thereunder.

211 (g) The Commissioner of Environmental Protection, in consultation  
212 with the board, shall establish standards for examining applicants and  
213 reexamining applicators with respect to the proper use and application  
214 of pesticides and [agricultural] arboriculture methods. Such standards  
215 shall provide that in order to be certified, an individual shall be  
216 competent with respect to the use and handling of pesticides or the use  
217 and handling of the pesticide or class of pesticides covered by such  
218 individual's application or certification and in the proper and safe  
219 application of recognized arboricultural methods.

220 (h) Any licensed arborist shall be considered to be a certified  
221 applicator under section 22a-54 with respect to the use of pesticides.

222 (i) Any person who is a certified applicator, as defined in section  
223 22a-54, who is also applying for or renewing a license as an arborist  
224 under this section shall not be required to pay a license fee under this  
225 section, provided all fees required by section 22a-54 have been paid in  
226 full.

227 Sec. 8. (NEW) (*Effective October 1, 2003*) As used in this section and  
228 sections 9 to 16, inclusive, of this act:

229 (1) "Arborist business" means any business which wholly or in part  
230 holds itself out for hire to perform arboriculture.

231 (2) "Place of business" means any physical location at or through  
232 which the functional operations of business regularly occur, including,  
233 but not limited to, financial transactions, arrangement of contracts,  
234 assignment of contracts, assignment of work and recordkeeping,  
235 excluding buildings or locations used solely for storage of equipment  
236 or supplies or telephone answering service.

237 (3) "Arboriculture" means any work done for hire to improve the  
238 condition of fruit, shade or ornamental trees by feeding or fertilizing,  
239 or by pruning, trimming, bracing, treating cavities or other methods of  
240 improving tree conditions, or protecting trees from damage from  
241 insects or diseases or curing these conditions by spraying or any other



242 method.

243 (4) "Person" means any individual, firm, partnership, association,  
244 syndicate, company, trust, corporation, limited liability company,  
245 municipality, agency or political or administrative subdivision of the  
246 state, or other legal entity of any kind.

247 (5) "Commissioner" means the Commissioner of Environmental  
248 Protection or an authorized agent of the commissioner.

249 (6) "Pesticide" means any substance or mixture of substances  
250 intended for preventing, destroying, repelling or mitigating any pest,  
251 or any substance or mixture of substances intended for use as a plant  
252 regulator, defoliant or desiccant.

253 Sec. 9. (NEW) (*Effective October 1, 2003*) (a) No person shall engage  
254 in the operation of an arborist business without first obtaining a  
255 certificate of registration from the commissioner.

256 (b) Application for a certificate of registration shall be made on such  
257 form as the commissioner may prescribe and with such information as  
258 the commissioner deems necessary to fulfill the purposes of sections 8  
259 to 16, inclusive, of this act. Such information may include, but is not  
260 limited to: (1) The name and residential address of the individual  
261 submitting an application on behalf of an arborist business; (2) the  
262 name, address and telephone number of the arborist business; (3) the  
263 name and license number of any licensed arborist employed by the  
264 arborist business; (4) the type of business; and (5) the name, address  
265 and telephone number of a person who will serve as a point of contact  
266 for the commissioner regarding the arborist business. The owner or  
267 operator of an arborist business shall notify the commissioner of any  
268 change in the information contained in an application or in the status  
269 of the business as an arborist business. The notification shall be  
270 submitted, in writing, not more than thirty days after the change.

271 (c) An application for a certificate of registration or for renewal of a  
272 certificate of registration shall be accompanied by payment of a fee of

273 sixty dollars. An application for a certificate of registration or for  
274 renewal of a certificate of registration shall not be deemed to be  
275 complete and shall not be acted upon by the commissioner until the  
276 required fee, as determined by the commissioner, is paid in full. A  
277 certificate of registration issued by the commissioner shall expire on  
278 the thirty-first day of August next succeeding its issuance. A person  
279 with an arborist business with more than one place of business in the  
280 state or who operates under more than one name shall register and  
281 pay the application fee for each place of business and for each business  
282 name. Funds received by the commissioner in accordance with the  
283 provisions of this section shall be deposited in the emergency spill  
284 response fund established under section 22a-451 of the general  
285 statutes, as amended by this act. The commissioner may expend from  
286 the amount collected for such fees any amount necessary to pay the  
287 administrative expenses related to registration and collection of fees,  
288 provided the amount expended in any fiscal year for such purposes  
289 shall not exceed ten per cent of the amount collected in such year.

290 (d) Any arborist business registered under this section shall display  
291 the registration number assigned to it by the commissioner on the  
292 body of any motor vehicle used by it in the course of business, in any  
293 newspaper advertisement for the business, on any billboard  
294 advertisement for the business, and in any advertisement for the  
295 business placed in the generally circulated telephone directory. Any  
296 such arborist business shall further include the number in any written  
297 contract it enters regarding the performance of arboriculture.

298 (e) Any person who complies with the arborist business registration  
299 requirements of this section shall not be required to register such  
300 business under section 22a-66c of the general statutes.

301 Sec. 10. (NEW) (*Effective October 1, 2003*) (a) The commissioner shall,  
302 after review of a complete application received pursuant to section 9 of  
303 this act, issue, with or without conditions, or deny a certificate of  
304 registration for a arborist business. Any denial of a certificate of  
305 registration shall briefly state the reasons for such denial. Any person

306 aggrieved by a decision to deny a certificate may, not later than thirty  
307 days after the date such decision is deposited in the mail, request a  
308 hearing before the commissioner. Such hearing shall be held in  
309 accordance with the provisions of chapter 54 of the general statutes.

310 (b) The commissioner may revoke or suspend a registration in  
311 accordance with the provisions of section 4-182 of the general statutes.

312 Sec. 11. (NEW) (*Effective October 1, 2003*) (a) It shall be unlawful for  
313 any person to:

314 (1) Violate any provision of sections 9 to 13, inclusive, of this act,  
315 chapter 441 of the general statutes, or any regulation, permit,  
316 certificate, registration or order adopted, administered or issued  
317 pursuant to said chapters;

318 (2) Include false or misleading information in an application or fail  
319 to notify the commissioner of a change as required by section 9 of this  
320 act;

321 (3) Include false or misleading information in records required to be  
322 maintained pursuant to section 13 of this act, fail to maintain such  
323 records, or fail to provide the commissioner with the records required  
324 by said section;

325 (4) Use a pesticide in a manner inconsistent with the registered  
326 labeling or with state or federal restrictions on the use of such  
327 pesticide;

328 (5) Apply pesticides generally known in the trade to be ineffective  
329 or improper for the intended use;

330 (6) Operate faulty or unsafe equipment which may result in  
331 improper pesticide application or harm to the environment, the worker  
332 or others;

333 (7) Apply a pesticide or perform arboriculture in a faulty, careless or  
334 negligent manner;

335 (8) Aid or abet a licensed or unlicensed person to evade the  
336 provisions of sections 9 to 13, inclusive, of this act, chapter 441 of the  
337 general statutes, or any regulation, permit, certificate, registration or  
338 order adopted, administered or issued pursuant to said chapters;

339 (9) Make a false or misleading statement during an inspection or  
340 investigation concerning an infestation of pests, an accident in  
341 applying a pesticide, misuse of a pesticide, or violation of a statute,  
342 regulation, certificate, registration or order;

343 (10) Perform arboriculture in a manner that does not meet generally  
344 accepted industry standards;

345 (11) Perform work, whether or not for compensation, in a category  
346 for which the arborist is not certified; and

347 (12) Possess a certificate of registration if such person has been  
348 convicted of a felony, as defined in section 53a-25 of the general  
349 statutes.

350 (b) The grounds for denial, revocation or suspension of a certificate  
351 of registration shall include, but not be limited to, the acts or omissions  
352 set forth in subsection (a) of this section. Any arborist business whose  
353 certificate of registration is denied, suspended or revoked shall not be  
354 eligible for a new certificate of registration until such time has elapsed  
355 from the date of denial, suspension or revocation as has been  
356 established by the commissioner.

357 (c) A new certificate or renewal of a certificate shall not be issued to  
358 an arborist business unless the applicant has submitted the summary  
359 required pursuant to subsection (d) of section 22a-58 of the general  
360 statutes for the previous calendar year.

361 Sec. 12. (NEW) (*Effective October 1, 2003*) Each arborist business shall  
362 employ at each place of business not less than one arborist licensed  
363 pursuant to section 23-61b of the general statutes, as amended by this  
364 act.

365       Sec. 13. (NEW) (*Effective October 1, 2003*) (a) An arborist business  
366 shall maintain records of pesticide applications for not less than five  
367 years from the date such record is made or amended, whichever is  
368 later. An arborist business shall maintain records of arboriculture, not  
369 involving the use of pesticides, for two years from the date such record  
370 is made or amended, whichever is later. The records maintained  
371 pursuant to this section shall include:

372       (1) For each application of a pesticide made on behalf of the  
373 business: (A) The name and certification number of the commercial  
374 supervisor and the commercial operator; (B) the kind and amount of  
375 pesticide used and the amount of acreage treated, if applicable; (C) the  
376 date and place of application; (D) the pest treated for; and (E) the crop  
377 or site treated;

378       (2) A list of the names and corresponding United States  
379 Environmental Protection Agency registration numbers of any  
380 pesticide applied by the business;

381       (3) The names and applicator certification numbers of all certified  
382 commercial pesticide applicators, operator or supervisory, who are  
383 employees or agents of the business, and a list of the types of  
384 applications which each is performing; and

385       (4) For each site where arboriculture not involving the use of  
386 pesticides was performed: (A) The type of work performed, including  
387 but not limited to, pruning, trimming, cabling, bracing, fertilizing or  
388 treating cavities; (B) the date and place of work; (C) the name and  
389 license number of the licensed arborist supervising the work; and (D)  
390 the names of any unlicensed or licensed persons performing the work  
391 under the supervision of the licensed arborist.

392       (b) Information required under subdivision (2) of subsection (a) of  
393 this section may be kept separately from the records required by  
394 subdivision (1) of said subsection or may be integrated with such  
395 records by including on the record of each pesticide application the full  
396 name and United States Environmental Protection Agency registration

397 number of the pesticide used.

398 (c) All records and information required to be kept pursuant to this  
399 section shall be kept at the registrant's place of business and may be  
400 inspected by the commissioner in accordance with section 22a-59 of the  
401 general statutes, as amended by this act, and shall be made available  
402 upon request by the commissioner. If the registrant's place of business  
403 is outside of the state, the records and information shall be made  
404 available to the commissioner at a location in the state not more than  
405 ten days after receipt of a request for inspection from the  
406 commissioner.

407 (d) An arborist business shall, upon written request, provide a  
408 customer with a copy of the record which is required to be kept  
409 pursuant to this section and which pertains to arboriculture performed  
410 for that customer.

411 Sec. 14. (NEW) (*Effective October 1, 2003*) Any person who violates  
412 any provision of sections 9 to 13, inclusive, of this act, shall be assessed  
413 a civil penalty of not more than five thousand dollars per day for each  
414 day a violation continues. The Attorney General, upon complaint of  
415 the commissioner, shall institute a civil action in the superior court for  
416 the judicial district of Hartford to recover such penalty.

417 Sec. 15. (NEW) (*Effective October 1, 2003*) In any proceeding  
418 regarding denial, suspension or revocation of a certificate of  
419 registration, and any proceeding pursuant to section 23-61m of the  
420 general statutes, the action, omission or failure to act of any officer,  
421 agent or other person acting for or employed by the arborist business  
422 shall also be deemed to be the action, omission or failure to act of the  
423 arborist business as well as that of the person employed.

424 Sec. 16. (NEW) (*Effective October 1, 2003*) The Commissioner of  
425 Environmental Protection may adopt regulations, in accordance with  
426 the provisions of chapter 54 of the general statutes, that are necessary  
427 to carry out the purposes of sections 23-61a of the general statutes, 23-  
428 61b of the general statutes, as amended by this act, and sections 8 to 15,

429 inclusive, of this act.

430 Sec. 17. Section 22a-59 of the general statutes is repealed and the  
431 following is substituted in lieu thereof (*Effective October 1, 2003*):

432 (a) For purposes of enforcing the provisions of this chapter,  
433 subsection (a) of section 23-61a and sections 23-61b, as amended by  
434 this act, [and] 23-61f, and sections 9 to 16, inclusive, of this act, officers  
435 or employees duly designated by the commissioner are authorized to  
436 enter at reasonable times, any establishment or other place where  
437 pesticides or devices are being or have been used, or where pesticides  
438 or devices are held for use, distribution or sale in order to: (1) Observe  
439 the application of pesticides; (2) determine if the applicator is or  
440 should be certified; (3) determine if the applicator has obtained a  
441 proper permit to apply restricted use pesticides; (4) inspect equipment  
442 or devices used to apply pesticides; (5) inspect or investigate the  
443 validity of damage claims; (6) inspect or obtain samples in any place  
444 where pesticides or devices have been used or are held for use, storage,  
445 distribution or sale; (7) obtain samples of any pesticides or devices  
446 packaged, labeled and released for shipment and samples of any  
447 containers or labeling for such pesticides or devices, and (8) obtain  
448 samples of any pesticides or devices that have been used and obtain  
449 samples of any containers or labeling for such pesticides or devices.  
450 Before undertaking such inspection, the officers or employees shall  
451 present to the owner, operator, or agent in charge of the establishment  
452 or other place where pesticides or devices are held for distribution or  
453 sale, appropriate credentials and a written statement as to the reason  
454 for the inspection, including a statement as to whether a violation of  
455 the law is suspected. If no violation is suspected, an alternate and  
456 sufficient reason shall be given in writing. Each such inspection shall  
457 be commenced and completed with reasonable promptness. If the  
458 officer or employee obtains any samples, prior to leaving the premises,  
459 he shall give to the owner, operator, or agent in charge a receipt  
460 describing the samples obtained and, if requested, a portion of each  
461 such sample equal in volume or weight to the portion retained. If an  
462 analysis is made of such samples, the laboratories of the Connecticut

463 Agricultural Experiment Station may be used and a copy of the results  
464 of such analysis shall be furnished promptly to the owner, operator, or  
465 agents in charge and the commissioner.

466 (b) For purposes of enforcing the provisions of this part, subsection  
467 (a) of section 23-61a, and sections 23-61b, as amended by this act, [and]  
468 23-61f, and sections 9 to 16, inclusive, of this act, and upon a showing  
469 to an officer or court of competent jurisdiction that there is reason to  
470 believe that the provisions of this chapter and said sections have been  
471 violated, officers or employees duly designated by the commissioner  
472 are empowered to obtain and to execute warrants authorizing: (1)  
473 Entry for the purpose of this section; (2) inspection and reproduction of  
474 all records showing the quantity, date of shipment, and the name of  
475 consignor and consignee of any pesticide or device found in the  
476 establishment which is adulterated, misbranded, not registered, in the  
477 case of a pesticide, or otherwise in violation of this part and said  
478 sections and in the event of the inability of any person to produce  
479 records containing such information, all other records and information  
480 relating to such delivery, movement, or holding of the pesticide or  
481 device; and (3) the seizure of any pesticide or device which is in  
482 violation of this part and said sections.

483 Sec. 18. Section 22a-66e of the general statutes is repealed and the  
484 following is substituted in lieu thereof (*Effective October 1, 2003*):

485 [(a) The grounds for denial, revocation or suspension of a  
486 registration shall include, but not be limited to]

487 (a) The following shall be unlawful:

488 (1) Violation of any provision of this chapter, [as amended] sections  
489 9 to 16, inclusive, of this act, or any regulation, permit, certificate,  
490 registration or order adopted, administered or issued pursuant thereto;

491 (2) Inclusion of false or misleading information in an application or  
492 failure to notify the commissioner of a change as required by section  
493 22a-66c;



494 (3) Inclusion of false or misleading information in records required  
495 to be maintained pursuant to section 22a-66g, the failure to maintain  
496 such records, or the failure to provide the commissioner with the  
497 records required by said section;

498 (4) Use of a pesticide in a manner inconsistent with the registered  
499 labeling or with state or federal restrictions on the use of such  
500 pesticide;

501 (5) Application of pesticides generally known in the trade to be  
502 ineffective or improper for the intended use;

503 (6) Operation of faulty or unsafe equipment which may result in  
504 improper application or harm to the environment, the applicator or  
505 others from the pesticide;

506 (7) Application of a pesticide in a faulty, careless or negligent  
507 manner;

508 (8) Aiding or abetting a certified or uncertified person to evade the  
509 provisions of this chapter, as amended, or any regulation, permit,  
510 certificate, registration or order adopted, administered or issued  
511 pursuant thereto;

512 (9) The making of a false or misleading statement during an  
513 inspection or investigation concerning an infestation of pests, an  
514 accident in applying a pesticide, misuse of a pesticide, or violation of a  
515 statute, regulation, certificate, registration or order;

516 (10) The performance of work, whether or not for compensation, in  
517 a category for which the applicator is not certified; and

518 (11) The conviction of the applicant or pesticide application business  
519 of a felony as defined in section 53a-25.

520 (b) The grounds for denial, revocation or suspension of a  
521 registration shall include, but not be limited to, the prohibited acts or  
522 omissions set forth in subsection (a) of this section. Any pesticide

523 application business whose certificate of registration is denied,  
524 suspended or revoked shall not be eligible for a new certificate until  
525 such time has elapsed from the date of the denial, suspension or  
526 revocation as has been established by the commissioner.

527 (c) A new certificate or renewal of a certificate shall not be issued to  
528 a commercial applicator unless the applicant has submitted the  
529 summary required pursuant to subsection (d) of section 22a-58, for the  
530 previous calendar year.

531 Sec. 19. Subsection (d) of section 22a-451 of the general statutes is  
532 repealed and the following is substituted in lieu thereof (*Effective*  
533 *October 1, 2003*):

534 (d) There is established an account to be known as the emergency  
535 spill response account, for the purpose of providing money for (1)  
536 costs associated with the implementation of section 22a-449 and  
537 chapter 441; (2) the containment and removal or mitigation of the  
538 discharge, spillage, uncontrolled loss, seepage or filtration of oil or  
539 petroleum or chemical liquids or solid, liquid or gaseous products or  
540 hazardous wastes including the state share of payments of the costs of  
541 remedial action pursuant to the federal Comprehensive Environmental  
542 Response, Compensation, and Liability Act of 1980 (42 USC 9601 et  
543 seq.), as amended; (3) provision of potable drinking water pursuant to  
544 section 22a-471; (4) completion of the inventory required by section  
545 22a-8a; (5) the removal of hazardous wastes that the commissioner  
546 deems to be a potential threat to human health or the environment; (6)  
547 (A) the provision of short-term potable drinking water pursuant to  
548 subdivision (1) of subsection (a) of section 22a-471 and the preparation  
549 of an engineering report pursuant to subdivision (2) of subsection (a)  
550 of said section when pollution of the groundwaters by pesticides has  
551 occurred or can reasonably be expected to occur; (B) the study required  
552 by special act 86-44\* and (C) as funds allow, education of the public on  
553 the proper use and disposal of pesticides and the prevention of  
554 pesticide contamination in drinking water supplies; (7) loans and lines  
555 of credit made in accordance with the provisions of section 32-23z; (8)

the accomplishment of the purposes of sections 22a-133b to 22a-133g, inclusive, and sections 22a-134 to 22a-134d, inclusive, including staffing, and section 22a-133k; (9) development and implementation by the commissioner of a state-wide aquifer protection program pursuant to the provisions of sections 19a-37, 22-6c, 22a-354c, 22a-354e, 22a-354g to 22a-354bb, inclusive, 25-32d, 25-33h, 25-33n and subsection (a) of section 25-84, including, but not limited to, development of state regulations for land uses in aquifer protection areas, technical assistance and educational programs; (10) research on toxic substance contamination, including research by the Environmental Research Institute and the Institute of Water Resources at The University of Connecticut and by the Connecticut Agricultural Experiment Station; (11) the costs of the commissioner in performing or approving level A mapping of aquifer protection areas pursuant to this title; [and] (12) inventory and evaluation of the farm resource management requirements of farms in aquifer areas by the eight county soil and water conservation districts; and (13) costs associated with the administrative expenses related to the registration of arborist businesses, as provided by section 9 of this act. The emergency spill response account shall be an account of the Environmental Quality Fund. On July 1, 2001, any balance remaining in said account shall be transferred to the resources of the Environmental Quality Fund. No expenditures shall be made from the amount transferred until on or after July 1, 2001.

Sec. 20. Section 22a-463 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2003*):

As used in sections 22a-463 to 22a-469, inclusive:

[(a)] (1) "Commissioner" means the Commissioner of Environmental Protection.

[(b)] (2) "PCB" means the class of organic compounds known as polychlorinated biphenyls or terphenyls and includes any of several compounds produced by replacing two or more hydrogen atoms on the biphenyl or terphenyl molecule with chlorine.

589 [(c)] (3) "Incidental amounts of PCB" means amounts of the  
590 compound PCB in an item, product or material which are beyond the  
591 control of the person manufacturing, selling for use, or using such  
592 item, product or material.

593 (4) "Dispose" means to intentionally or unintentionally discard,  
594 throw away or otherwise complete or terminate the useful life of PCBs  
595 and items containing PCBs. "Dispose" includes spills, leaks and other  
596 uncontrolled discharges of PCBs, as well as actions relating to  
597 containing, transporting, destroying, degrading, decontaminating or  
598 confining PCBs and items containing PCBs.

599 Sec. 21. Section 22a-467 of the general statutes is repealed and the  
600 following is substituted in lieu thereof (*Effective October 1, 2003*):

601 No person shall dispose of the compound PCB or any item, product  
602 or material containing the compound PCB except in accordance with a  
603 permit issued pursuant to section 22a-208a, 22a-430 or 22a-454.  
604 Notwithstanding the provisions of this section, a person or  
605 municipality may dispose of the compound PCB, or the item, product  
606 or material containing the compound PCB, in accordance with a  
607 written approval by the commissioner if such disposal (1) results in  
608 destruction of the compound PCB; or (2) is not inconsistent with the  
609 provisions of Part 761 of Title 40 of the Code of Federal Regulations.  
610 The commissioner may include in any such approval such conditions  
611 as he deems appropriate to protect the environment and human  
612 health. For purposes of this section, person includes any responsible  
613 corporate officer or municipal official. [and "dispose" means to  
614 incinerate or treat the compound PCB or any item, product or material  
615 containing the compound PCB, or to discharge, deposit, inject, dump  
616 or place the compound PCB or any item, product or material  
617 containing the compound PCB into or on land or water so that such  
618 compound, item, product or material enters the environment, is  
619 emitted into the air, or is discharged into any waters, including  
620 groundwaters.]

621 Sec. 22. Section 22a-220a of the general statutes is amended by

622 adding subsections (j) and (k) as follows (*Effective July 1, 2003*):

623 (NEW) (j) If a municipality or collector delivers solid waste  
624 generated in the state to an out-of-state solid waste facility, such  
625 municipality shall submit a report to the Commissioner of  
626 Environmental Protection, quarterly, with respect to the calendar  
627 quarter beginning on October 1, 2003, and each calendar quarter  
628 thereafter, on or before the last day of the month immediately  
629 following the end of each quarter. Such report shall be on a form  
630 prescribed by the commissioner and shall provide such information  
631 the commissioner deems necessary, including, but not limited to, the  
632 municipality of origin of such solid waste, the amount of solid waste  
633 delivered to such out-of-state facility, by weight or other method  
634 acceptable to the commissioner and the name and address of the  
635 facility receiving such solid waste.

636 (NEW) (k) Each municipality shall provide the Commissioner of  
637 Environmental Protection and specified solid facility with the names  
638 and addresses of collectors registered with such municipality  
639 beginning on July 1, 2003, and annually thereafter, on a form  
640 prescribed by the commissioner and shall provide such information  
641 the commissioner deems necessary.

642 Sec. 23. Section 22a-611 of the general statutes is repealed and the  
643 following is substituted in lieu thereof (*Effective October 1, 2003*):

644 The owner or operator of a facility required to complete a toxic  
645 release form under Section 313 of the Emergency Planning and  
646 Community Right-to-Know Act of 1986 shall annually submit such  
647 form to the commission on or before the first of July [1, 1990, and  
648 annually thereafter] or a date established by the United States  
649 Environmental Protection Agency, whichever comes later.

650 Sec. 24. Subdivisions (1) to (4), inclusive, of section 22a-255h of the  
651 general statutes are repealed and the following is substituted in lieu  
652 thereof (*Effective October 1, 2003*):

653 As used in sections 22a-255g to 22a-255m, inclusive:

654 (1) "Package" means any container, produced either domestically or  
655 in a foreign country, used for the marketing, protecting or handling of  
656 a product and includes a unit package, an intermediate package and a  
657 shipping container. "Package" also means any unsealed receptacle such  
658 as a carrying case, crate, cup, pail, rigid foil or other tray, wrapper or  
659 wrapping film, bag or tub, [but shall not include any glass, ceramic or  
660 metal receptacle which is intended to be reusable or refillable.]

661 (2) "Distributor" means any person who takes title or delivery from  
662 the manufacturer of a package, packaging component or product,  
663 produced either domestically or in a foreign country, to use for  
664 promotional purposes or to sell.

665 (3) "Packaging component" means any part of a package, produced  
666 either domestically or in a foreign country, including, but not limited  
667 to, any interior or exterior blocking, bracing, cushioning,  
668 weatherproofing, exterior strapping, coating, closure, ink, label, dye,  
669 pigment, adhesive, stabilizer or other additive. Tin-plated steel that  
670 meets specification A623 of the American Society of Testing and  
671 Materials shall be considered as a single packaging component.  
672 [Electrolytic galvanized steel that meets specification A879 of the  
673 American Society of Testing and Materials and hot-dipped coated  
674 galvanized steel that meets specification A525 of the American Society  
675 of Testing and Materials shall be treated in the same manner as tin-  
676 plated steel] Electro-galvanized coated steel and hot dipped coated  
677 galvanized steel that meets the American Society of Testing and  
678 Materials specifications A653, A924, A879 and A591 shall be treated in  
679 the same manner as tin-plated steel.

680 (4) "Commissioner" means the Commissioner of Environmental  
681 Protection or an authorized agent or designee of the commissioner.

682 Sec. 25. Subdivision (12) of section 22a-255h of the general statutes is  
683 repealed and the following is substituted in lieu thereof (*Effective*  
684 *October 1, 2003*):

685 (12) "Manufacturer" means any person [, firm, association,  
686 partnership or corporation] producing a package or packaging  
687 component as defined in subdivision (3) of this section, as amended by  
688 this act.

689 Sec. 26. Subdivision (14) of section 22a-255h of the general statutes is  
690 repealed and the following is substituted in lieu thereof (*Effective*  
691 *October 1, 2003*):

692 (14) "Supplier" means any person, firm, association, partnership or  
693 corporation which sells, offers for sale or offers for promotional  
694 purposes packages or packaging components which will be used by  
695 any other person [, firm, association, partnership or corporation] to  
696 package a product.

697 Sec. 27. Subsection (a) of section 22a-255i of the general statutes is  
698 repealed and the following is substituted in lieu thereof (*Effective*  
699 *October 1, 2003*):

700 (a) As soon as feasible, but not later than October 1, 1992, no  
701 package or packaging component shall be offered for sale or  
702 promotional purposes in this state, by its manufacturer or distributor,  
703 if it is composed of any lead, cadmium, mercury or hexavalent  
704 chromium which has been intentionally introduced during  
705 manufacturing or distribution, as opposed to the incidental presence of  
706 any of these substances.

707 Sec. 28. Section 22a-255j of the general statutes is repealed and the  
708 following is substituted in lieu thereof (*Effective October 1, 2003*):

709 All packages and packaging components shall be subject to sections  
710 22a-255g to 22a-255m, inclusive, except the following:

711 (1) A package or packaging component which was manufactured  
712 prior to October 1, 1990, and displays a code indicating the date it was  
713 manufactured;

714 (2) A package or packaging component that would not exceed any

715 maximum concentration set forth in subsection (c) of section 22a-255i  
716 but for the addition or use of recycled materials; provided the  
717 provisions of sections 22a-255g to 22a-255m, inclusive, shall apply to  
718 such packages on and after January 1, [2000] 2010;

719 (3) A package or packaging component to which lead, cadmium,  
720 mercury or hexavalent chromium have been added in the  
721 manufacturing or distribution process in order to comply with health  
722 or safety requirements of federal law, provided the manufacturer of  
723 such a package or packaging component has demonstrated to the  
724 commissioner that such package or packaging component is entitled to  
725 an exemption under this subdivision and the commissioner grants  
726 such exemption. The exemption shall be effective for up to two years  
727 and may be extended if circumstances warrant an extension. An  
728 extension may be granted for up to two years;

729 (4) Any alcoholic liquor bottled prior to October 1, 1992;

730 (5) A package or packaging component to which lead, cadmium,  
731 mercury or hexavalent chromium have been added in the  
732 manufacturing, forming, printing or distribution process for which  
733 there is no feasible alternative to the use of lead, cadmium, mercury or  
734 hexavalent chromium provided the manufacturer of such a package or  
735 packaging component has demonstrated to the commissioner that such  
736 package or packaging component is entitled to an exemption under  
737 this subdivision and the commissioner grants such exemption. The  
738 exemption shall be effective for two years and may be extended if  
739 circumstances warrant an extension. An extension may be granted for  
740 up to two years. For purposes of this subdivision, a use for which there  
741 is no feasible alternative is one which is essential to the protection, safe  
742 handling or function of the package's contents and for which [there is  
743 no substitute] technical constraints preclude the substitution of other  
744 materials. For purposes of this subdivision, a use for which there is no  
745 feasible alternative shall not include the use of any lead, cadmium,  
746 mercury or hexavalent chromium for the purpose of marketing;

747 (6) A package or packaging component that is reused but exceeds



748 contaminant levels set forth in subsection (c) of section 22a-255i,  
749 provided (A) the product being conveyed by such [package or  
750 packaging component] packaged product is regulated under federal or  
751 state health or safety requirements; (B) the transportation of such  
752 package or packaging component is regulated under federal or state  
753 transportation requirements; (C) the disposal of the package or  
754 packaging component is performed according to federal or state  
755 radioactive or hazardous waste disposal requirements; and (D) the  
756 manufacturer of such package or packaging component has  
757 demonstrated to the commissioner that such package or packaging  
758 component is entitled to an exemption under this subdivision and the  
759 commissioner grants such exemption. Any exemption granted under  
760 this subdivision shall expire on January 1, [2000] 2010;

761 (7) A package or packaging component which is reusable and has a  
762 controlled distribution and reuse but which exceeds the contaminant  
763 levels set forth in subsection (c) of section 22a-255i, provided the  
764 manufacturer or distributor of such package or packaging component  
765 petitions the commissioner for an exemption and the commissioner  
766 grants such exemption. A manufacturer or distributor petitioning the  
767 commissioner for such an exemption shall (A) satisfactorily  
768 demonstrate that the environmental benefit of the reusable packaging  
769 or packaging component is significantly greater as compared to the  
770 same package or packaging component manufactured in compliance  
771 with the contaminant levels set forth in subsection (c) of section 22a-  
772 255i, and (B) submit a written plan including, at a minimum, the  
773 following elements: (i) A means of identifying in a permanent and  
774 visible manner those reusable packages or packaging components  
775 containing regulated metals for which the exemption is sought; (ii) a  
776 method of regulatory and financial accountability such that a specified  
777 percentage of such reusable packaging or packaging components  
778 manufactured and distributed to other persons are not discarded by  
779 those persons after use, but are returned to the manufacturer or his  
780 designee; (iii) a system of inventory and record maintenance to  
781 account for the reusable packaging or packaging components placed in  
782 and removed from service; (iv) a means of transforming returned

783 packaging or packaging components that are no longer reusable into  
784 recycled materials for manufacturing or into manufacturing wastes  
785 which are subject to existing federal or state laws or regulations to  
786 ensure that these wastes do not enter the commercial or municipal  
787 waste stream; and (v) a system for annually reporting to the  
788 commissioner any changes to the system or changes regarding the  
789 manufacturer's designee. Any exemption granted under this  
790 subdivision shall expire on January 1, [2000] 2010;

791 (8) A glass or ceramic package or packaging component that has a  
792 vitified label which, when tested in accordance with the Toxicity  
793 Characteristic Leaching Procedures of the United States Environmental  
794 Protection Agency Test Method and Publication SW 846, third edition,  
795 "Test Methods for Evaluating Solid Waste", does not exceed one part  
796 per million for cadmium, five parts per million for hexavalent  
797 chromium and five parts per million for lead. This exemption shall  
798 expire on January 1, 2005.

799 Sec. 29. Subsection (a) of section 22a-255m of the general statutes is  
800 repealed and the following is substituted in lieu thereof (*Effective*  
801 *October 1, 2003*):

802 (a) The [department] commissioner may, in consultation with the  
803 [Source Reduction Council of the Council of Northeastern Governors]  
804 other member states of the Toxics in Packaging Clearing House,  
805 review the effectiveness of sections 22a-255g to 22a-255m, inclusive,  
806 and provide a report based on such review to the Governor and the  
807 General Assembly. The report may describe substitutes which  
808 manufacturers and distributors of packages and packaging  
809 components have used in place of lead, mercury, cadmium and  
810 hexavalent chromium, and may contain recommendations concerning  
811 (1) other toxic substances contained in packaging that should be added  
812 to those regulated under the provisions of sections 22a-255g to 22a-  
813 255m, inclusive, in order to further reduce the toxicity of packaging  
814 waste and (2) the advisability of retaining the exemption provided in  
815 subdivision (2) of section 22a-255j.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>
Sec. 6	<i>October 1, 2003</i>
Sec. 7	<i>October 1, 2003</i>
Sec. 8	<i>October 1, 2003</i>
Sec. 9	<i>October 1, 2003</i>
Sec. 10	<i>October 1, 2003</i>
Sec. 11	<i>October 1, 2003</i>
Sec. 12	<i>October 1, 2003</i>
Sec. 13	<i>October 1, 2003</i>
Sec. 14	<i>October 1, 2003</i>
Sec. 15	<i>October 1, 2003</i>
Sec. 16	<i>October 1, 2003</i>
Sec. 17	<i>October 1, 2003</i>
Sec. 18	<i>October 1, 2003</i>
Sec. 19	<i>October 1, 2003</i>
Sec. 20	<i>October 1, 2003</i>
Sec. 21	<i>October 1, 2003</i>
Sec. 22	<i>July 1, 2003</i>
Sec. 23	<i>October 1, 2003</i>
Sec. 24	<i>October 1, 2003</i>
Sec. 25	<i>October 1, 2003</i>
Sec. 26	<i>October 1, 2003</i>
Sec. 27	<i>October 1, 2003</i>
Sec. 28	<i>October 1, 2003</i>
Sec. 29	<i>October 1, 2003</i>

**ENV**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Department of Environmental Protection	Environmental Quality/GF - Cost	None	None
	Environmental Quality/ Spill Account/GF - Revenue Gain	Minimal	Minimal
Attorney General	GF - Revenue Gain	Minimal	Minimal

Note: GF=General Fund

#### **Municipal Impact:**

Municipalities	Effect	FY 04 \$	FY 05 \$
Various Municipalities	Cost	Potential	Potential

### **Explanation**

#### **State Impact**

Requiring approval by the Commissioner of the Department of Environmental Protection (DEP) before the closure of a solid waste disposal area will clarify and modify current actions. No fiscal impact to the DEP is anticipated. Any workload increase due to submittal of a plan to the DEP for disposal of special waste or processed construction and demolition wood is anticipated to be minimal and handled within the routine duties of the agency.

Exempting from the Transfer Act requirements any real property or business operation that deals with universal waste as long as their activities have not caused any discharge, spill, uncontrolled loss, seepage or filtration of universal waste, will have no fiscal impact. No change in the current workload or Transfer Act fee from current

practice is anticipated.

Any increase in the administrative workload of the DEP due to hearings or inspection of arborist records is anticipated to be minimal.

Any additional revenue due to setting a \$150 fee for each initial license for an arborist is anticipated to be offset by eliminating license fees for arborists that have pesticide licenses. The revenue increase to the Emergency Spill Response Account due to requiring people engaged in the arborist business to register and pay \$60 for a certificate of registration is anticipated to be less than \$50,000, based on approximately 790 persons having personal licenses.

The changes made in the definitions relating to PCBs by more broadly defining disposal will enable the DEP to take action before an actual leak, spill, or uncontrolled discharge occurs. This could potentially reduce future costs, since action would be taken before an expensive cleanup would be needed.

The change made in the submittal of the toxic release form by the owner or operator of a facility will streamline the submittal and has no impact.

The changes made in the toxics in packaging law are mostly minor and technical and have no fiscal impact to the state.

Any revenue gain associated with the bill's civil penalty is expected to be minimal. The Attorney General's office could handle any increase in caseload under the bill without needing additional appropriations

### ***Municipal Impact***

The quarterly reporting required by municipalities in the bill concerning solid waste could increase costs to certain towns not currently budgeted for. The exact impact would vary from town to town. To the extent that the town has the information from the haulers required for the reports, the impact would be minimal.

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**OLR Bill Analysis**

sHB 6401

***AN ACT CONCERNING REVISIONS TO CERTAIN WASTE MANAGEMENT PROGRAMS*****SUMMARY:**

This bill:

1. prohibits anyone from closing a solid waste disposal area unless the environmental protection commissioner approves it;
2. authorizes the commissioner to issue a general permit for the excavation, disruption, or closure of a solid waste disposal area built or established before July 1, 1971;
3. allows a permittee of a solid waste disposal area permitted for municipal solid waste to apply for a permit to dispose of special waste or processed construction and demolition wood;
4. exempts from the requirements of the Transfer Act property or a business that deals solely with universal waste, as long as their activities have not caused any uncontrolled discharge or spill of a universal waste;
5. requires arborist businesses to register with the commissioner and sets requirements and standards they must meet;
6. specifies what constitutes PCB disposal;
7. requires owners and operators of facilities required to complete a toxic release form under federal law to report annually to the state emergency response commission by July 1, or a date set by the U.S. Environmental Protection Agency (EPA), whichever is later;
8. reestablishes certain exemptions to the toxic-in-packaging law and makes other changes to it; and
9. requires towns to report to the commissioner on the delivery of

solid waste to out-of-state facilities.

EFFECTIVE DATE: October 1, 2003, except the town reporting requirements on sending solid waste out-of-state are effective July 1, 2003

### **CLOSURE OF SOLID WASTE DISPOSAL AREAS**

The bill requires any permit, order, or approval to include conditions the commissioner believes necessary to protect human health and the environment, and requirements for post-closure use, care, monitoring, and maintenance. The terms and conditions of such closure order, approval, or permit supersede and take precedence over requirements specified in previous orders.

The bill authorizes the environmental protection commissioner to issue a general permit for the excavation, disruption, or closure of a solid waste disposal area built or established before July 1, 1971. It requires anyone closing a solid waste disposal area to obtain an approval, order, or permit from the commissioner. A general permit covers similar minor activities throughout a prescribed geographic area, rather than requiring a separate permit for each activity.

### **DISPOSAL OF SPECIAL WASTE AND PROCESSED CONSTRUCTION AND DEMOLITION WOOD**

By law, processed construction and demolition wood may be disposed of only at resources recovery facilities, permitted municipal solid waste landfills, and solid waste disposal areas permitted for the disposal of bulky waste. Resources recovery facilities may submit to the commissioner a plan to dispose of special waste.

This bill would allow solid waste disposal areas permitted for municipal solid waste to apply for a permit to dispose of both processed construction and demolition wood and special waste. It authorizes the commissioner to grant such permits.

Processed construction and demolition waste is the wood portion of construction and demolition waste which has been sorted to remove plastics, plaster, gypsum wallboard, asbestos, asphalt shingles, regulated wood fuel, or wood that contains creosote, or to which pesticides have been applied.

By regulation, special waste includes water treatment, sewage treatment or industrial sludges; liquid, solids and contained gases; fly-ash and casting sands or slag, and contaminated dredge spoils; scrap tires; bulky waste; asbestos; residue, and biomedical waste, but not hazardous waste or radioactive material.

## **EXEMPTION OF UNIVERSAL WASTE HANDLERS FROM THE TRANSFER ACT**

The Transfer Act governs the sale or other conveyance of property where hazardous waste or hazardous substances may have been produced, stored, or otherwise handled. It requires that such property be investigated and properly remediated. The bill exempts from these requirements (1) real property or business operations that solely handled universal wastes and (2) universal waste transfer facilities, if there has not been a discharge, spill, or uncontrolled loss of such wastes. Under the bill, a universal waste includes certain batteries, pesticides, thermostats, lamps, and used electronics.

Exempt under this provision as a universal waste handler is anyone who produces a universal waste or who causes it to become subject to regulation, or the owner of a facility that receives universal waste from another universal waste handler, accumulates it, or sends it to another handler, facility, or a foreign destination. The bill includes in this definition small and large quantity handlers of batteries and thermostats, as defined by federal law. The bill does not exempt anyone who treats, disposes of, or recycles universal waste. A universal waste facility is any transportation-related facility, including a loading dock, parking area, storage, or similar area where shipments of universal waste are usually held for up to 10 days.

## **ARBORIST LICENSING**

### **Registration Certificate**

The bill requires people engaged in an arborist business to register with the environmental protection commissioner on a form he prescribes. The commissioner may require the applicant to include in the registration certificate the:

1. name and home address of the applicant;



2. name, address, and telephone number of the arborist business;
3. name and license number of any licensed arborist employed by the business;
4. type of business;
5. name, address, and telephone number of a person who will serve as a contact concerning the business.

The business owner or operator must notify the commissioner in writing of any change in the application information no more than 30 days after the change. The bill sets a \$60 fee for registration certificates and renewals, and requires it to be paid in full before the commissioner can act upon it. Certificates expire on the next August 31 after they are issued. People with more than one place of business, or who operate under more than one name must register and pay the application fee for each. The commissioner must deposit the application and renewal fees in the emergency spill response fund. He may spend from the fund the amount needed to pay administrative expenses related to registration and fee collection. However, he cannot spend in any one fiscal year more than 10% of the amount collected that year.

Registered arborists must display their registration number (1) on the body of any motor vehicle they use for business; (2) in any newspaper, billboard, or telephone directory advertisement; and (3) any written contract they enter regarding the performance of arboriculture. The bill exempts those who comply with its registration provisions from the need to register as a pesticide application business.

### ***Commissioner's Authority to Deny Certificates***

Under the bill, the commissioner may issue, issue with conditions, or deny a certificate of registration. He must briefly state the reasons for a denial, and persons aggrieved by such a decision have 30 days from the date the decision is placed in the mail to request a hearing. The commission also may revoke or suspend a registration.

### ***Arborist License***

By law, no one can contract to do arboriculture without a license,

which is valid for five years. The bill authorizes the commissioner to issue licenses so that one-fifth of them expire each year, and to prorate licenses issued for less than five years. By law, licenses pay a \$150 license renewal fee. The bill also sets a \$150 fee for each initial license. It exempts from both the initial and renewal fee certified pesticide applicators applying for or renewing an arborist license, as long as they have paid their applicator fees in full. It specifies that license applicants must take an examination.

Under the bill, arboriculture means any work done for hire to improve the condition of fruit, shade, or ornamental trees by feeding, fertilizing, pruning, trimming, bracing, or other methods; protecting trees from insect or disease damage; or curing these conditions by spraying or other methods. It defines pesticide as any substance or mixture of substances meant to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

### ***Illegal Activities***

The bill makes it illegal for anyone to:

1. violate certain of its provisions and laws, regulations, certificates, registrations, or orders concerning pesticides;
2. make false statement or include misleading information in his application;
3. fail to notify the commissioner of a change in such information;
4. include false or misleading information in records the bill requires, fail to maintain such records, or fail to provide the commissioner with such records;
5. use a pesticide in a manner inconsistent with the registered labeling, or with state and federal restrictions on it;
6. apply pesticides generally known to be ineffective or improper for its intended use;
7. operate faulty or unsafe equipment that may cause improper pesticide application or harm the environment, workers, or others;

8. apply a pesticide or perform arboriculture in a faulty, careless, or negligent manner;
9. aid or help a licensed or unlicensed person to evade certain of the provisions of the bill or state pesticide laws, regulations, permits, certificates, registrations, or orders;
10. make a false or misleading statement during an inspection or investigation concerning an infestation of pests, an accident in applying a pesticide, misuse of a pesticide, or violation of law regulation, certificate, registration, or order;
11. perform arboriculture in a way that does not meet generally accepted industry standards;
12. perform work, regardless of whether for compensation, for which the arborist is not certified; and
13. possess a certificate of registration if convicted of a felony.

It authorizes the commissioner to deny, revoke, or suspend an arborist business' registration certificate for any of above listed reasons or other reasons. The commissioner determines how soon after a denial, suspension, or revocation, a business can obtain a new certificate.

The commissioner cannot issue a new certificate to an arborist business unless the applicant has submitted a summary of his use of pesticides, as required by law, for the previous calendar year.

The bill requires each arborist business to employ at least one licensed arborist at each place of business. It requires businesses to maintain records of pesticide applications for at least five years from the date the record is made or amended. It must maintain records of arboriculture, not involving the use of pesticides, for two years from the later of the date the record is made or amended. The records must include the following:

For applications of pesticides:

1. the name and certification number of the commercial supervisor and the commercial operator;

2. the type and amount of pesticide used and the amount of acreage treated, if applicable;
3. the date and place of application;
4. the pest treated for;
5. the crop or site treated;
6. a list of the names and corresponding EPA registration numbers of any pesticide applied by the business; and
7. the names and applicator certification numbers of all certified commercial pesticide applicators, operators, or supervisory staff, who are employees or agents of the business, and the types of applications each is performing.

The bill allows the business to keep the list of names and corresponding EPA registration numbers separately from records of their use, or to combine it with such records by including on the record of each pesticide application the full name and EPA registration number of the pesticide use.

For arboriculture not involving pesticide application the:

1. type of work performed, including pruning, trimming, cabling, bracing, fertilizing or treating cavities;
2. date and place of work;
3. name and license number of the licensed arborist supervising the work; and
4. names of any unlicensed or licensed persons performing the work under the supervision of the licensed arborist.

All such records must be kept at the registrant's place of business and must be made available to the commissioner for inspection. If the registrant's place of business is outside Connecticut, he must make the information available to the commissioner in the state within 10 days after the commissioner requests it. The business must provide a

customer with these records that pertain to work done for that customer upon the customer's written request.

### ***Penalties***

The bill subjects anyone who fails to register, employ at least one licensed arborist in each place of business, maintain records, or who commit any of the designated illegal acts to a civil penalty of up to \$5,000 a day for each day a violation continues. It authorizes the commissioner to ask the attorney general to bring a civil action in Hartford Superior Court to recover the penalty. In a proceeding regarding denial, suspension, or revocation of a certificate, or certain other proceedings (see COMMENT), the bill makes any action, omission, or failure to act of any officer, agent, or other person acting for, or employed by, the business also the action, omission, or failure to act of the business.

The bill authorizes the commissioner to adopt regulations to carry out the provisions of the bill and of existing law concerning arboriculture. It authorizes officers or employees the commissioner designates to inspect arborists' places of business to ensure compliance with the law and to obtain and execute search warrants.

It makes it unlawful for pesticide applicators to violate laws regulations, permits, certificates, registrations, or orders governing arborists.

### **PCB DISPOSAL**

Under law, it is illegal to dispose of the compound PCB without a permit. By law, disposal includes incinerating or treating PCBs or items containing PCBs or discharging, depositing, injecting, dumping or placing PCBs or items containing PCBs into or on land or water so that it enters the environment, is emitted into the air, or is discharged into any waters, including groundwaters. The bill eliminates the requirement that PCBs be found to have entered the environment and the specific requirements, and more broadly defines disposal as intentionally or unintentionally discarding, throwing away, or otherwise completing or terminating the useful life of PCBs and items containing PCBs. Disposal includes spills, leaks, and other uncontrolled PCB discharges, and actions relating to the containment, transportation, destruction, degradation, decontamination, or confinement of PCBs and items containing PCBs.

## **SOLID WASTE HAULING**

The bill requires each town and solid waste collector that delivers solid waste generated in the state to an out-of-state facility, to report to the commissioner quarterly, starting October 1, 2003, and each calendar quarter thereafter. The report must include the town where the solid waste originated, the amount of solid waste delivered out of state by weight or other method the commissioner accepts, and the name and address of the out-of-state facility. Starting July 1, 2003, and each year thereafter, each town must provide the commissioner and the out-of-state solid waste facility with the names and address of collectors registered with the town and other information the commissioner believes necessary.

## **TOXICS RELEASE FORM**

Under current law, the owner or operator of a facility required to complete a toxic release form under the Emergency Planning and Community Right-to-Know Act must submit it to the state emergency response commission before July 1, 1990 and annually thereafter. The bill requires that he submit the form annually before (1) July 1 or (2) a date established by the EPA, whichever comes later.

## **TOXICS IN PACKAGING**

The law bars manufacturers and distributors from selling or using for promotional purposes most packages or products in packages that intentionally contain lead, cadmium, mercury, or hexavalent chromium. Packages and products containing more than specified levels of these metals are also banned even if the material was not introduced intentionally. The law exempts certain packages.

The bill reestablishes exemptions granted certain packages and packaging components that expired January 1, 2000. The new exemption, which expires on January 1, 2010, is for a package or packaging that:

1. exceeds maximum concentration levels of lead, cadmium, mercury, or hexavalent chromium only because of the addition or use of recycled materials; and
2. is reusable and has a controlled distribution and reuse but which

exceeds the incidental concentration levels of lead, cadmium, mercury, or hexavalent chromium, if the manufacturer or distributor petitions the commissioner for an exemption and the commissioner grants it.

It also reestablishes but limits to reused packaging the exemption for a package or packaging that exceeds incidental contaminant levels for lead, cadmium, mercury, or hexavalent chromium, if the product, its transportation, or disposal is regulated by specific state or federal regulations or if the commissioner grants an exemption upon the packaging's manufacturer showing it is warranted.

It exempts, until January 1, 2005, a glass or ceramic package or packaging component that has a vitrified label, that, when tested according to the EPA's Toxicity Characteristic Leaching Procedures Test Method and Publication SW 846, third edition, "Test Methods for Evaluating Solid Waste," does not exceed one part per million (ppm) for cadmium, five ppm for hexavalent chromium, and 5 ppm for lead.

By law, packages or packaging components in which lead, cadmium, mercury, or hexavalent chromium have been added in the manufacturing or distribution process are exempt if (1) there is no feasible alternative, (2) the manufacturer has demonstrated to the commissioner an exemption is necessary, and (3) the commissioner grants an exemption. The exemption is good for two years and may be extended for another two years. The bill extends this exemption to the forming and printing process, and specifies that by feasible alternative it means in most cases, technical constraints preclude the substitution of other materials, rather than one for which no substitute exists. But the bill does not allow an exemption under this provision for any lead, cadmium, mercury, or hexavalent chromium used for marketing purposes.

The bill authorizes the commissioner, in consultation with other member states of the Toxics in Packaging Clearing House, to review the law's effectiveness and report to the governor and legislature. Under current law, he must consult with the Source Reduction Council of the Council of Northeastern Governors.

By law, electrolytic galvanized steel and hot-dipped coated galvanized steel meeting certain specifications are treated as tin-plated steel for the purposes of the act. The bill (1) refers to electro-galvanized coated

steel instead of electrolytic galvanized steel and (2) changes the specifications the type of steel must meet.

The bill also:

1. expands the definition of package to include glass, ceramic or metal receptacles intended to be reusable or refillable;
2. specifies that it includes packages produced either in the U.S. or in a foreign country;
3. specifies that the laws affect packages as well as packaging materials; and
4. makes technical changes.

## **COMMENT**

### ***Proceedings Regarding Denial, Suspension, or Revocation of an Arborist Business Certificate***

For arborist businesses, the bill makes any action, omission, or failure to act of any officer, agent, or other person acting for, or employed by, the business the action, omission, or failure to act of the business in proceedings under a statute (CGS § 23-61m) that does not exist.

## **COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 27      Nay 0